

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Scott Carlton	Team: Squad #16	CCRB Case #: 201709365	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 11/14/2017 9:01 AM	Location of Incident: Tompkins Avenue between MacDonough Street and Macon Street	Precinct: 79	18 Mo. SOL 5/14/2019	EO SOL 5/14/2019	
Date/Time CV Reported Tue, 11/14/2017 10:00 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 11/14/2017 9:01 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Keith Chatterton	07323	925067	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Edwin Collado	11625	955829	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Keith Chatterton	Discourtesy: Police Officer Keith Chatterton spoke discourteously to § 87(2)(b)	
B.POM Keith Chatterton	Abuse: Police Officer Keith Chatterton threatened to arrest § 87(2)(b)	
C.POM Keith Chatterton	Abuse: Police Officer Keith Chatterton detained § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On November 14, 2017, § 87(2)(b) reported the following complaint to the CCRB by telephone.

On November 14, 2017 at 9:01 p.m., PO Keith Chatterton and PO Edwin Collado responded to a three-vehicle accident on Tompkins Avenue between MacDonough Street and Macon Street in Brooklyn. § 87(2)(b) arrived at the scene before the officers and distributed business cards for a lawyer to the drivers. PO Chatterton immediately approached § 87(2)(b) and yelled, “Who the fuck are you? What the fuck are you doing here?” and “Didn’t you give her a fucking business card?” (**Allegation A: Discourtesy**, § 87(2)(g)) PO Chatterton told § 87(2)(b) that he could be arrested four to five times, and at one point said, “I’ll arrest your ass” (**Allegation A, continued; Allegation B: Abuse of Authority**, § 87(2)(g)) PO Chatterton told § 87(2)(b) to show him his “fucking” ID and stated, “Show me the ID now or I’ll arrest your ass right now” (**Allegation A, continued**). PO Chatterton took § 87(2)(b)’s ID from him and ordered him to wait by the “goddamn sidewalk” (**Allegation C: Abuse of Authority**, § 87(2)(g)) After 30 minutes of waiting, § 87(2)(b) approached PO Chatterton to show him his heart monitor and explain that he had health problems. PO Chatterton responded, “Just go sit your ass down” (**Allegation A, continued**). § 87(2)(b) was permitted to leave after 45 minutes. He was not arrested or issued a summons.

§ 87(4-b), § 87(2)(g)

No video evidence of the incident was obtained by the investigation.

Findings and Recommendations

Allegation (A) Discourtesy: PO Keith Chatterton spoke discourteously to § 87(2)(b)
It is in dispute whether PO Chatterton spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that as soon as PO Chatterton arrived at the accident scene and observed § 87(2)(b) in conversation with one of the drivers, § 87(2)(b) he approached him and yelled, “Who the fuck are you? What the fuck are you doing here?” (Board Review 01) Moments later, he stated, “Didn’t you give her a fucking business card?” § 87(2)(b) was taken aback as he had said nothing to PO Chatterton prior to PO Chatterton’s statements and had never interacted with him on a previous occasion. PO Chatterton screamed loudly and quickly at him. § 87(2)(b) began to stutter and felt his breathing become shallow because he thought he might be physically harmed. He tried to remain calm in his demeanor. § 87(2)(b) explained that he had given out cards for his wife’s lawyer, to which PO Chatterton responded, “That’s illegal. I’ll arrest your ass.” He demanded § 87(2)(b)’s “fucking” ID. As § 87(2)(b) reached in his pocket for his ID, PO Chatterton said, “Show me the ID now or I’ll arrest your ass now.” § 87(2)(b) § 87(2)(b) complied, but after he had waited on the sidewalk for 30 minutes, he approached PO Chatterton in order to indicate to him that he had health problems. PO Chatterton said, “Just go sit your ass down.”

§ 87(2)(b) the driver with whom § 87(2)(b) was speaking to when PO Chatterton approached him, provided a statement by phone in which she stated that PO Chatterton spoke loudly and authoritatively to § 87(2)(b) (Board Review 02). As PO Chatterton approached her, he asked § 87(2)(b) what he was doing and told him to get away from her. However, § 87(2)(b) did not remember that PO Chatterton used any profanity during the incident.

Another driver who was involved in the accident, § 87(2)(b) provided a statement by phone in which he stated that PO Chatterton and § 87(2)(b) engaged in a back-and-forth dialogue, at the end of which PO Chatterton told § 87(2)(b) that he was not going to waste his time and that § 87(2)(b) should go about his own business (Board Review 03). § 87(2)(b) described PO Chatterton as respectful to all parties, and stated that he was calm when he spoke to § 87(2)(b). Neither PO Chatterton nor PO Collado used profanity during the incident.

PO Collado was identified based upon the Motor Vehicle Accident Report, for which he was the reporting officer (Board Review 14). PO Collado identified PO Chatterton as his partner during his interview at the CCRB (Board Review 04). The roll call confirmed that PO Collado and PO Chatterton were partners on the date of occurrence (Board Review 15). § 87(2)(b) s description of a white male subject officer who was six foot two inches tall and in his 50s § 87(2)(b)

PO Collado stated that the demeanors of § 87(2)(b) and PO Chatterton were “normal” (Board Review 04). PO Chatterton was quiet as PO Collado asked § 87(2)(b) to move back from the accident scene. PO Chatterton did not make any of the discourteous statements that § 87(2)(b) alleged. PO Chatterton did not use any profanity throughout the incident.

PO Chatterton stated that he was loud and stern in his interactions with § 87(2)(b) (Board Review 05), but explained that he often speaks in this manner and sometimes people misunderstand and take personal offense. When PO Chatterton first spoke to § 87(2)(b) he asked if he was involved in the accident or if he was injured. Approximately two minutes later, during which time § 87(2)(b) had refused to step back from the accident after PO Chatterton had requested him to do so multiple times, PO Chatterton asked for his identification. In this case, there was nearby construction and § 87(2)(b) was not compliant, so one might have perceived him to have yelled at § 87(2)(b). From the sidewalk, § 87(2)(b) made statements containing profanity to PO Chatterton as he prepared an accident report in the police vehicle. PO Chatterton, who sat in the driver’s seat, did not respond and closed the front driver’s side door window. PO Chatterton stated that he did not say any of the discourteous words alleged by § 87(2)(b).

Neither the witnesses nor the officers confirmed § 87(2)(b) s allegations that PO Chatterton used discourteous language toward him. While § 87(2)(b) s and PO Chatterton’s statements corroborated § 87(2)(b) s description of PO Chatterton as loud and commanding toward § 87(2)(b), neither indicated that he had used profanity. § 87(2)(b) stated that she did not recall if such language was used, while § 87(2)(b) and the officers indicated that he had not.

§ 87(2)(g)

Allegation (B) Abuse of Authority: PO Keith Chatterton threatened to arrest § 87(2)(b)

All parties agree that PO Chatterton informed § 87(2)(b) that he could be arrested.

§ 87(2)(b) stated that when PO Chatterton approached him outside § 87(2)(b)'s car and § 87(2)(b) told PO Chatterton that he had distributed business cards for a lawyer, PO Chatterton responded, "That's illegal. I'll arrest your ass" (Board Review 01). During the entirety of his interaction with the police officers, PO Chatterton told § 87(2)(b) he could be arrested four to five times. PO Chatterton did not explain why § 87(2)(b)'s actions were illegal in any of these instances.

§ 87(2)(b) and § 87(2)(b) stated that they did not hear PO Chatterton tell § 87(2)(b) that he could or would be arrested (Board Review 02 and Board Review 03). However, § 87(2)(b) stated that, upon his arrival at the scene, PO Chatterton saw § 87(2)(b) distribute a business card to § 87(2)(b) (Board Review 03). PO Chatterton told § 87(2)(b) that he had to leave the scene and stated that it was illegal for him to distribute business cards at the accident. § 87(2)(b) responded that he was not in the way of the officers. PO Chatterton stated that § 87(2)(b) should not speak to the accident victims and that the accident did not have to do with him. § 87(2)(b) engaged in a back-and-forth dialogue with PO Chatterton, at the end of which PO Chatterton said he was not going to waste his time and told § 87(2)(b) to go about his business. § 87(2)(b) stated that there were a few bystanders at the accident, though she did not remember how many (Board Review 02).

PO Collado stated that he believed § 87(2)(b) was soliciting on behalf of a tow truck company when he encountered him because he had observed him distribute business cards (Board Review 04). PO Chatterton did not tell § 87(2)(b) he could be arrested or threaten him with arrest. Approximately five onlookers gathered on the sidewalk during the incident.

PO Chatterton stated that when he approached the accident scene, he encountered § 87(2)(b) in front of § 87(2)(b) who sat in the driver's seat of her car with the front driver's side door open, her feet in the street, her head down, and having difficulty catching her breath (Board Review 05). PO Chatterton believed she appeared vulnerable. § 87(2)(b) stood directly in front of § 87(2)(b) so that his arm and hand rested on top of the front driver's side door. PO Chatterton asked § 87(2)(b) if he was involved in the accident or injured, and he replied that he was not. He asked § 87(2)(b) if she knew § 87(2)(b) and she said that she did not. When PO Chatterton asked § 87(2)(b) who he was and why he was at the scene, he stated he was trying to help § 87(2)(b). PO Chatterton saw a pocketbook in plain view in the back driver's side seat and noticed that the back driver's side door was open. PO Chatterton did not know § 87(2)(b)'s intentions and believed that he might possibly be guilty of larceny based upon his observations. PO Chatterton was not aware that § 87(2)(b) had solicited the drivers with

business cards. PO Chatterton asked § 87(2)(b) to back away and stand on the sidewalk. § 87(2)(b) resisted verbally, loudly arguing with PO Chatterton. PO Chatterton did not remember what § 87(2)(b) said, but knew that he expressed that he did not want to comply. PO Chatterton did not remember if § 87(2)(b) swore at him. After PO Chatterton had issued § 87(2)(b) instructions to move away at least three times without cooperation, PO Chatterton told § 87(2)(b) that he could be arrested. He stated this at least twice. PO Chatterton did not tell § 87(2)(b) for what he could be arrested specifically, but he believed § 87(2)(b) had exhibited disorderly conduct when he failed to move away from the scene as PO Chatterton had told him to do. No crowds formed during PO Chatterton's interaction with § 87(2)(b). § 87(2)(b) did not draw attention to himself or call out for assistance. As § 87(2)(b) departed at the end of the incident, PO Chatterton did not say, "Say one more thing and I'll arrest you."

Patrol Guide Procedure 208-01 states that an individual can be arrested without a warrant when an officer has reasonable cause to believe that the offense was committed in their presence (Board Review 06). NY CLS Penal § 195.05 defines behavior in which an individual "intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference" as obstruction of government administration (Board Review 07). NY CLS Penal § 240.20 distinguishes disorderly conduct as behavior that involves an intent by the perpetrator to cause "public inconvenience" (Board Review 08).

§ 87(2)(g)



Allegation (C) Abuse of Authority: PO Keith Chatterton detained § 87(2)(b)

§ 87(2)(b) was detained at the incident location for at least 30 minutes.

§ 87(2)(b) stated that after PO Chatterton told him he would arrest him, he immediately demanded § 87(2)(b)'s ID (Board Review 01). After he had obtained the ID, PO Chatterton ordered § 87(2)(b) to sit on the sidewalk. When § 87(2)(b) tried to protest, he was interrupted by PO Chatterton who told him to sit on the sidewalk. § 87(2)(b) complied. After

some time on the sidewalk, § 87(2)(b) stood up. PO Chatterton observed § 87(2)(b) as he did so and yelled, “What are you doing? What’d I tell you? This is illegal.” When, after 30 minutes, § 87(2)(b) walked from the curb toward PO Chatterton, who sat in the police vehicle, and displayed his heart monitor, PO Chatterton told § 87(2)(b) to sit back down. § 87(2)(b) returned to the spot on the curb where he had been told to stand. After an additional 15 minutes, § 87(2)(b) said, “Officer,” in order to obtain PO Chatterton’s attention. PO Chatterton told § 87(2)(b) not to say a word. § 87(2)(b) was subsequently silent as he waited by the curbside for his ID to be returned. § 87(2)(b) was made to stay at the location by the curbside for 45 minutes before PO Chatterton approached, returned his ID, and permitted him to leave without issuing him a summons.

PO Chatterton stated that he asked for § 87(2)(b)’s ID approximately two minutes after he first encountered him (Board Review 05). As he did so, he believed he might issue § 87(2)(b) a summons for disorderly conduct and for refusing a lawful order. PO Chatterton additionally asked for § 87(2)(b)’s ID because he did not know § 87(2)(b)’s intentions, especially in regard to § 87(2)(b)’s pocketbook. PO Chatterton believed he needed to retain § 87(2)(b)’s ID as he determined his involvement in or relation to the vehicle collision, as well as whether he had tried to profit from it. After PO Chatterton had made two requests for § 87(2)(b)’s ID, § 87(2)(b) provided it. PO Chatterton retained the ID. PO Chatterton ordered § 87(2)(b) to move to the sidewalk because § 87(2)(b) was not involved in the accident, because PO Chatterton had observed § 87(2)(b) in close proximity to the pocketbook of a woman who was in a disoriented state, and because PO Chatterton did not know § 87(2)(b)’s intentions. Based on these factors, PO Chatterton determined that § 87(2)(b) was “up to no good.” Once at the curbside, § 87(2)(b) was not free to leave. § 87(2)(b) stood at the sidewalk for approximately 30 minutes before PO Chatterton returned his ID. During that time, PO Chatterton attended to the drivers and ensured that the street could be reopened to traffic. As PO Chatterton spoke to each of the drivers, he learned from them that § 87(2)(b) had distributed business cards. PO Chatterton asked the drivers to give him the cards and told them that it was illegal for § 87(2)(b) to distribute them at the scene. PO Chatterton accompanied the female driver into the ambulance, where she allowed him to look through her pocketbook to ensure that all her items were accounted for. PO Chatterton returned to his vehicle and ran warrant and background checks on § 87(2)(b)’s ID. PO Chatterton made a telephone call to another police officer, who told him that § 87(2)(b)’s solicitations were not illegal, at which point PO Chatterton told § 87(2)(b) he was free to go. No summons was issued.

The fly sheet of PO Chatterton’s memo book for the date of occurrence contains § 87(2)(b)’s pedigree information and the phrase, “Person I stopped” (Board Review 09).

Patrol Guide 212-11 asserts that a stop, defined as a situation in which a reasonable person would not feel free to walk away from an officer, must be justified by an individualized reasonable suspicion that illegal activity has, is, or is about to be committed (Board Review 10). In People v. Robinson, 282 A.D.2d 75 (2001), the courts defined a detention as a stop extended in time, and held that a detention must be temporary and last no longer than is necessary to effectuate the purpose of the stop (Board Review 16).

§ 87(2)(g)



In addition to PO Chatterton's assertion that he believed he might issue a summons to § 87(2)(b), PO Chatterton stated that he asked § 87(2)(b) to stand by the curb because he did not know § 87(2)(b)'s intentions, and had observed § 87(2)(b) in close proximity to the pocketbook of a woman who was in a disoriented state, which led him to the impression that § 87(2)(b) was "up to no good."

In People v. Young, 202 A.D.2d 957 (1994), the courts asserted that an individual's proximity to the site of a crime or possible crime, insofar as it is "as susceptible to an innocent as to a culpable interpretation," does not provide reasonable suspicion (Board Review 11).

§ 87(2)(g)



§ 87(2)(g)



§ 87(2)(g)



§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(4-b), § 87(2)(g)
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s third complaint with the CCRB (Board Review 12).
 - § 87(2)(b)
[REDACTED]
 - [REDACTED]
- PO Chatterton has been a member of the NYPD for 18 years and has had 31 CCRB allegations against him across 15 previous cases, five of which were substantiated. Of the 26 non-mediated allegations, eight were for discourtesy and five were for threat of arrest.
 - In CCRB 200508075, an allegation of a retaliatory arrest was substantiated. Command Discipline was recommended by the CCRB. The NYPD issued Instruction.
 - In CCRB 201106011, an allegation of discourteous language was substantiated. Command Discipline was recommended by the CCRB. The NYPD issued Command Discipline B.
 - In CCRB 201410995, an allegation of refusal to provide name and shield number was substantiated. Command Discipline A was recommended by the CCRB and followed by the NYPD.

- In CCRB 201507225, an allegation of refusal to provide name and shield number was substantiated. Command Discipline A was recommended by the CCRB and followed by the NYPD.
- In CCRB 201507225, an allegation of discourteous language was substantiated. Formalized training was recommended by the CCRB. Command Discipline A was issued by the NYPD.

Mediation, Civil and Criminal Histories

- § 87(2)(b) was offered and declined to pursue § 87(2)(b)
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- A FOIL request sent to the Comptroller's Office confirmed that a Notice of Claim was filed on behalf of § 87(2)(b) by § 87(2)(b) on § 87(2)(b). § 87(2)(b) is seeking payment as a result of his claim that members of the NYPD engaged in an unlawful detention and arrest, assault and battery, and negligence which caused § 87(2)(b) indignity and emotional upset (Board Review 17).

Squad No.: 16

Investigator:			
	Signature	Print Title & Name	Date
Squad Leader:			
	Signature	Print Title & Name	Date
Reviewer:			
	Signature	Print Title & Name	Date